

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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CHAPTER 105

State Prison and State Reformatory

STATE PRISON

10808. Diminution of sentence.

Laws 1933, c. 329, providing for termination of sentences between March and November does not prevent release at other times during year by reason of good conduct. Op. Atty. Gen., Aug. 25, 1933.

10812. Sale of binding twine.

Laws 1931, c. 340, fixes maximum price of machinery sold for 1931 and 1932.

10815. State prison may manufacture machinery.—The State Board of Control is hereby authorized, empowered, and directed to establish, construct, equip, maintain and operate, at the State Prison, at Stillwater, a factory for the manufacture of hay rakes, hay loaders, mowers, grain harvesters and binders, corn harvesters and binders and corn cultivators, and the extra parts thereof and, if the board deems it advisable, cultivators of all kinds, culti-packers, manure spreaders, ploughs, rotary hoes, and the extra parts thereof and rope and ply goods of all kinds and for that purpose to employ, and make use of the labor of prisoners kept in said prison, at any time available therefor and as largely as may be, and such but only such skilled laborers as in the judgment of the said Board of Control and the Warden of the State Prison may be necessary for the feasible and successful and profitable employment of the said prisoners therein therefor, and for the purposes of, and to give full effect to, this act, said Board of Control may use all of, or any part of, not exceeding two hundred fifty thousand dollars of the existing state prison revolving fund created by and existing under Chapter 151 of the General Laws of 1909 (Section 9291-9294, General Statutes 1913, sections 10790-10793, Mason's Minn. Stat. 1927) but provided further that said State Board of Control and the said Warden of the Prison shall, at all times, in the line of manufacturing herein authorized and directed, employ and make use of prison labor to the largest extent feasible.

And said Board of Control and said Warden of the said Prison are hereby authorized, directed and instructed to establish in and throughout all parts of this State where there is use and demand for such manufactured products as are referred to herein, and binding twines, and ropes and ply goods of all kinds, local selling agencies therefor, and to contract with such agencies to furnish thereto for the local sale thereof, the farm machinery the manufacture of which is authorized by this act and the extra parts thereof, f. o. b. the said factory, at the actual cost of the production thereof, plus five per cent of the actual cost thereof; including a charge of not to exceed twenty-seven cents per hour for labor of each prisoner employed; and the said local agencies so contracted with are hereby authorized in the resale thereof to their actual customers therefor, to charge advance prices equaling twenty per cent of the prices charged them for said machines (plus actual freight charges), but not a greater profit thereon, and the contracts entered into with said agencies shall be so worded as to obligate them to be diligent in the prosecution of the sales of the said machines to the customers therefor. ('07, c. 49, §1; G. S. '13, §9315; '13, c. 141, §1; '23, c. 294, §1; '27, c. 172; Apr. 24, 1929, c. 348.)

Laws 1931, c. 340 and Laws 1933, c. 342, fixes the price of machinery and parts manufactured under this section for the years 1931 to 1934, inclusive.

10816. Sale of machines.

Laws 1931, c. 340, fixes maximum prices for 1931 and 1932.

10824. Sentence—Term of imprisonment.

Superintendent of reformatory has no right to refuse acceptance of prisoners sentenced to his institution contrary to law. Op. Atty. Gen., Feb. 6, 1933.

10826. Expense of sheriff in conveying convicts.

No provision is made for compensation when sheriff uses his own automobile in transporting prisoner to state prison or state reformatory, but sheriff is entitled to allowance of amount equivalent to railroad fare for himself, prisoner and guards. Op. Atty. Gen., July 6, 1932.

CHAPTER 106

Jails, Lockups, Work Farms, and Juvenile Offenders

See §§208-1 to 208-9 creating probation and investigation department in certain counties.

COUNTY JAILS

10847. How constructed and maintained.

County has no authority to pay rent, fuel or light bills of a sheriff's residence apart from the county jail, even during process of rebuilding the jail. Op. Atty. Gen., Sept. 16, 1931.

10849. United States prisoners.—Whenever any

person is committed to any jail by any process issued under authority of the United States, the sheriff or jailer shall receive such person into custody, and safely keep him until discharged by due course of law, subject in all respects to the same liabilities and remedies as though committed under process issued under state authority. The United States shall pay to the county the sum of one dollar per day for each prisoner so kept and boarded, subject to such division of fees between the county and the sheriff as is now provided by law. (R. L. '05, §5464; G. S. '13, §9336; '17, c. 304, §1; Mar. 27, 1931, c. 91.)

Sheriff must receive prisoners committed by federal court, and is entitled to receive from the county 75c per day for each federal prisoner, the amount collected

from the federal government being turned over to the county treasurer. Op. Atty. Gen., Nov. 28, 1930.

A county is not required to receive federal prisoners if it does not want to take them, and the matter of payment of compensation to a matron for women prisoners is a matter to be taken up with the Federal Government. Op. Atty. Gen., Aug. 11, 1931.

A county cannot enter into a contract with federal government agreeing to board federal prisoners at a rate less than \$1 per day. Op. Atty. Gen., June 16, 1933.

In absence of negligence sheriff is not liable for loss of money held for federal prisoner in jail safe. Op. Atty. Gen., July 27, 1933.

10853. Labor for jail prisoners.

Prisoners may be kept at a road camp at night when working at a distance from the county seat. Op. Atty. Gen., Apr. 30, 1929.

Op. Atty. Gen., Mar. 24, 1933; note under §10907. County is not liable for injuries received by prisoner in county jail while working. Op. Atty. Gen., Mar. 13, 1933.

County is not liable for medical attention to discharged prisoner who was injured while working pursuant to this section. Op. Atty. Gen., Mar. 13, 1933.

One sentenced to jail of one county may not be committed to work farm in another county because county jail has been condemned. Op. Atty. Gen., Mar. 24, 1933.

10857. Compensation for boarding prisoners.—

Every sheriff in charge of a county jail shall receive

from the county compensation for board and washing for prisoners as follows:

On the last day of each month he shall render to the county board a verified statement showing the name of each prisoner and the number of days boarded. The pay shall be fifty-five cents per day and proportionately for a fractional day for each prisoner. In every county where the sheriff's compensation for board of prisoners is fixed by special law it shall so continue unless the county board by unanimous vote shall elect to come under the general law after which it shall be governed by this section provided that the provisions of this Act shall not apply to any county in this state now or hereafter having a population of more than seventy-five thousand (75,000). (R. L. '05, §5472; '09, c. 192, §1; G. S. '13, §9344; '17, c. 184, §1; Apr. 15, 1933, c. 251.)

Sheriff must receive prisoners committed by federal court, and is entitled to receive from the county 75c per day for each federal prisoner, the amount collected from the federal government being turned over to the county treasurer. Op. Atty. Gen., Nov. 28, 1930.

Sheriff is only entitled to receive 55c per day for boarding of federal prisoners unless such compensation is fixed by special law in counties containing more than 75,000 inhabitants. Op. Atty. Gen., June 6, 1933.

This act became operative on April 16, 1933. Op. Atty. Gen., June 24, 1933.

City must pay county actual cost and expenses incurred by county in care of city prisoner, §10879 controlling over this section. Op. Atty. Gen., Sept. 25, 1933.

10858. Collection of board bills.

Sheriff must pay over to county all sums received for board of federal prisoners and then file his claim against the county. Op. Atty. Gen., Nov. 9, 1929.

Sheriff must receive prisoners committed by federal court, and is entitled to receive from the county 75c per day for each federal prisoner, the amount collected from the federal government being turned over to the county treasurer. Op. Atty. Gen., Nov. 28, 1930.

Sheriff is not entitled to receive cash for part of prisoners' board bill which is paid for keep of federal prisoners and for which government pays cash. Op. Atty. Gen., Oct. 14, 1932.

Sheriff's bill for boarding prisoners must be submitted to county board and allowed by them, and this applies to board of federal prisoners. Op. Atty. Gen., Oct. 14, 1932.

10859. Charges for other than county prisoners.—

Whenever any prisoner is ordered confined in any county other than that in which his offense was committed, the sheriff of such other county shall keep him at the expense of the county sending him, and shall collect from such county for his board eighty-five cents per day, except that when there are not more than three prisoners in such county jail the charge for such board shall be one dollar and twenty cents per day for each prisoner, and, in addition thereto, such sum as shall have been necessarily expended for clothing, bedding, and medical aid for such prisoners. The county board of the county from which such prisoners are sent, at its first session after their commitment, shall authorize the auditor to issue to the sheriff of the county where they are committed orders upon the county treasurer for the maintenance of such prisoners while they remain in such jail. (R. L. '05, §5474; G. S. '13, §9346; Apr. 24, 1929, c. 320.)

Op. Atty. Gen., Sept. 25, 1933; note under §10857.

The eighty-five cents collected by sheriff must be turned over to county, and he is only entitled to receive seventy-five cents back. Op. Atty. Gen., Nov. 9, 1929.

Where one was convicted of crime in Clearwater County and sentenced to county jail of Beltrami County, in which county prisoner had legal settlement, Clearwater County, and not Beltrami County, was liable for surgical treatment of prisoner. Op. Atty. Gen., Apr. 29, 1932.

10863. Clothing, bedding, food and care.

County must furnish the sheriff with fuel for cooking purposes. Op. Atty. Gen., Jan. 6, 1932.

County, and not township of pauper's settlement, is liable for medical aid furnished him while a prisoner in county jail. Op. Atty. Gen., Mar. 21, 1933.

10873. District jails—How designated.

One sentenced to jail of one county may not be committed to work farm in another county because county jail has been condemned. Op. Atty. Gen., Mar. 24, 1933.

LOCKUPS

10879. Cities may send prisoners to jails outside.

A city or village must pay the county the necessary costs and expenses in taking care of a prisoner sentenced for violation of an ordinance. Op. Atty. Gen., Sept. 10, 1931.

City must pay actual cost and expenses incurred by county in care of prisoners regardless of §§10857, 10859. Op. Atty. Gen., Sept. 25, 1933.

WORK OR CORRECTIONAL FARMS IN CERTAIN COUNTIES

10889. Counties having over 150,000 and less than 225,000 inhabitants.

County cannot maintain two tracts of land forty miles apart as a work farm, but may abandon one farm and purchase another. Op. Atty. Gen., June 19, 1929.

10892. Land, how acquired—Improvements—

Prisoners.—The board of county commissioners of any such county as shall decide to acquire the land for and establish such work farm under the provisions of this law, shall have the power to acquire by purchase or condemnation a tract of land of not more than 4,500 acres, which land said county may acquire and hold in its own name, or jointly with any such city as shall decide to co-operate with any such county in the purchase of said land in the establishment of such farm, and as such shall furnish and pay one-half of the cost thereof.

That said county may singly, or in co-operation with such city, through the commission herein provided for, improve such farm by the erection of fences and suitable buildings thereon, and in such other ways as may be found necessary by it in order to accomplish the purpose for which said farm shall be established, and all such improvements when made by such county and city acting jointly through such commission shall be the joint property of such county and city.

The Superintendent of said work farm shall cause all prisoners confined thereon to be employed at hard labor, as far as practicable, either upon the said farm or elsewhere in said county, in order to enable said prisoners to be engaged in productive employment and to be self-supporting. (G. S. '13, §9377; '13, c. 188, §4; Apr. 15, 1929, c. 197, §1.)

10907. Transfer of prisoners from jail to work-house authorized.

One sentenced to jail of one county may not be committed to work farm in another county because county jail has been condemned. Op. Atty. Gen., Mar. 24, 1933.

JUVENILE OFFENDERS

10910. Duties—Contingent fund.

See §§208-1 to 208-9.

10911. Duty of probation officer.

See §§208-1 to 208-9.

10912. Stay of sentence.

See §§208-1 to 208-9.

10915-11. Same—Annual report.

The county board of Ramsey County, the probation officer and the judge of district court may, in their discretion, print copies of annual report of probation officer of juvenile court and distribute them among welfare agencies, priests and ministers. Op. Atty. Gen., May 26, 1931.

10915-12. Salary of probation officer and assistant in certain counties.—

The chief probation officer shall receive three thousand two hundred dollars (\$3,200.00) per annum, the assistant probation officer shall receive two thousand dollars (\$2,000.00) and after serving five years shall receive twenty-two hundred dollars (\$2,200.00) per annum. All other deputy probation officers who have served as such probation officer for more than three years shall receive eighteen hundred dollars (\$1,800.00) per annum, and all other deputy probation officers who have served as such probation officers for more than two years shall receive sixteen hundred dollars (\$1,600.00) per annum, and all other deputy probation officers who have served as such probation officers for more than one year shall receive thirteen hundred dollars (\$1,300.00) per an-

num, and all other such deputy probation officers shall receive \$1,200.00 per annum, and all stenographers who have served for more than two years shall receive twelve hundred dollars (\$1,200.00) per annum, and

all other stenographers shall receive one thousand dollars (\$1,000.00) per annum, and all clerks shall receive \$900.00 per annum: ('23, c. 289, §12; '27, c. 420, §3; Laws 1929, c. 380, Apr. 20, 1931, c. 257.)

Part V. Construction of Statutes and Express Repeals

CHAPTER 107

Statutes

CONSTRUCTION

10928. When to take effect.

Act takes effect the beginning of the day following its approval. Op. Atty. Gen., Apr. 9, 1929.
Laws 1933, c. 251, approved on April 15, became operative on April 16. Op. Atty. Gen., June 24, 1933.

10929. Revision to operate as repeal, when.

Section 1538-1 does not repeal or modify the provisions of the charter of the City of St. Paul providing for condemnation of land for street and highway purposes. 177M146, 225NW86.

10930. Effect of repeal.

Sheriff agreeing to pay detective \$25 for each conviction for violation of liquor laws could pay such amount in pending cases for convictions occurring after effective date of Laws 1933, c. 130. Op. Atty. Gen., Apr. 28, 1933.

10932. Rules of construction.

Prima facie effect of similar South Dakota law construed. Berlin v. K., 183M278, 236NW307. See Dun. Dig. 8821, 8937a(99), 8956.

As between a statutory provision with special and limited application, and another, general in scope, special controls general within former's limited field. Rosenquist v. O., 187M375, 245NW621. See Dun. Dig. 8970.

Ambiguity will be resolved in favor of state. State v. Walsh, 247NW523. See Dun. Dig. 8990.

Literal meaning of statute is not always conclusive, and there must be resort to construction when words, otherwise plain, result in ambiguity when applied to their subject-matter. State v. Walsh, 247NW523. See Dun. Dig. 8938.

1. Judicial duty and policy.

A court will pass upon the constitutionality of a law only when necessary. 181M427, 232NW737. See Dun. Dig. 8930a.

Court must consider act valid until satisfied to contrary beyond a reasonable doubt. Sweet v. R., 250NW 46. See Dun. Dig. 8931.

2. Who may question validity.

A litigant may be heard to question the constitutionality of a statute only when it is about to be applied to his disadvantage. 181M427, 232NW737. See Dun. Dig. 8935(79).

Public officials who have no personal pecuniary interest in the matter involved will not be permitted to raise the question of the constitutionality of a statute to avoid the performance of a ministerial duty which it clearly imposes upon them. 181M427, 232NW737. See Dun. Dig. 8935(78).

10933. Particular words and phrases.

6.

Act to establish October 12th as Columbus Day. Laws 1931, c. 175, ante, §2883-2.

Act to establish October 9 as Leif Erikson Day. Laws 1931, c. 120, ante, §2883-1.

14. Published and posted notices.—Unless otherwise specially provided, the words "Published notice," when used in reference to the giving of notice in any proceeding or the serving of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice or other paper referred to, in the regular issues of a qualified newspaper, once in each week, and at uniform intervals, for the number of weeks specified. Provided, however, that when one of the regular publication days for such notice, summons, order or process shall fall upon Thanksgiving Day or upon any legal holiday then and in that case it shall be a compliance with the law to have said notice, summons, order or process published either the day before or the day after Thanksgiving Day or such legal holiday. And a "qualified newspaper" shall be one published in the county wherein the action or proceeding is pending or in which the thing to which such notice relates is to occur or be

done, and conforming to the requirements of §10935; or, if there be none in such county, then in an adjoining county. The term "posted notice," when similarly used, shall mean the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or be performed; provided, however, that in any town in which there is located within its geographical limits a city or village, one or more such notices may be posted in such city or village. (As amended Apr. 16, 1931, c. 181, §1.)

(2). The word "town" contained in par. 2 of this section is not broad enough to authorize the treasurer of a village to take steps relative to depositaries of village funds as provided for in Laws 1931, c. 216, secs. 1 to 4. Op. Atty. Gen., Jan. 24, 1933.

(9). Farmers' Implement Co. v. Sandberg, 132Minn389, 157 NW642, holding that the service of summons on a legal holiday confers no jurisdiction on the court, followed. Chapman v. F., 184M318, 238NW637. See Dun. Dig. 4191 (32).

State legislature may legally transact business on Good Friday only if it brings itself within the exception of this section. Op. Atty. Gen., Apr. 12, 1933.

Legislature may legally transact business on Good Friday only in cases of necessity. Op. Atty. Gen., Apr. 12, 1933.

Depositors' meeting should not be called on Good Friday. Id.

Proceedings to vacate highway had upon Nov. 11, were valid. Op. Atty. Gen., May 3, 1933.

(14). Under section 31 of the Brainerd City Charter, requiring clerk to advertise in official newspaper of the city for one week for sealed proposals, one publication of the notice in the newspaper at least one week prior to the opening of the bids is sufficient. Op. Atty. Gen., June 24, 1931.

Under a statute providing that "two weeks' published notice" shall be given that bids will be received and opened, bids could be opened one week from the date of the last publication, excluding the date of publication, and including the date of opening the bid. Op. Atty. Gen., June 30, 1931.

(17). 180M241, 230NW572.

(19). The word "year" in §3259, forbidding more than twelve boxing exhibitions during any one year, means calendar year commencing January 1st. Op. Atty. Gen., Feb. 8, 1932.

(21). 179M349, 229NW312.

In computing the three-day period in which a bill is to be returned by the Governor in order to effect a veto thereof under Const., Art. 4, §11, Sunday, but not a holiday, is to be excluded. 172M162, 215NW200.

Liability of the bank stockholder making a transfer on November 23rd, 1925, continued to and included November 23rd, 1926. Bank of Dassel v. M., 183M127, 235NW914. See Dun. Dig. 803(11).

A cause of action alleging items of deposit received in an insolvent bank, the last one on March 7, 1924, is not barred as to such last item on March 7, 1930. The first day is excluded and the last included in the computation of time. Olesen v. R., 184M624, 238NW12. See Dun. Dig. 9625(98).

Where twentieth day after suit is commenced falls on Sunday or legal holiday, demand for change of venue under §9215 may be made on following Monday. State v. Mills, 187M287, 245NW431. See Dun. Dig. 9625, 10123.

First day was excluded and last day included in determining time of cancellation of workman's compensation insurance policy. Olson v. M., 247NW8. See Dun. Dig. 9625.